

## § 70.1

## 7 CFR Ch. I (1–1–07 Edition)

- 70.34 Application for grading service in official plants; approval.
- 70.35 Rejection of application.
- 70.36 Withdrawal of application.
- 70.37 Order of service.
- 70.38 Suspension or withdrawal of plant approval for correctable cause.
- 70.39 Form of application.

### DENIAL OF SERVICE

- 70.40 Debarment.
- 70.41 Misrepresentation, deceptive, or fraudulent act or practice.
- 70.42 Use of facsimile forms.
- 70.43 Willful violation of the regulations.
- 70.44 Interfering with a grader or employee of Service.
- 70.45 Misleading labeling.
- 70.46 Miscellaneous.

### IDENTIFYING AND MARKING PRODUCTS

- 70.50 Approval of official identification and wording on labels.
- 70.51 Form of grademark and information required.
- 70.52 Prerequisites to packaging ready-to-cook poultry or rabbits identified with consumer grademarks.
- 70.54 Retention authorities.
- 70.55 Check grading officially identified product.
- 70.56 Grading requirements of poultry and rabbits identified with official identification.

### REPORTS

- 70.60 Report of grading work.
- 70.61 Information to be furnished to graders.
- 70.62 Reports of violations.

### FEES AND CHARGES

- 70.70 Payment of fees and charges.
- 70.71 On a fee basis.
- 70.72 Fees for appeal grading or review of a grader's decision.
- 70.75 Travel expenses and other charges.
- 70.76 Charges for continuous poultry grading performed on a nonresident basis.
- 70.77 Charges for continuous poultry or rabbit grading performed on a resident basis.
- 70.78 Fees or charges for grading service performed under cooperative agreement.

### GRADING CERTIFICATES

- 70.90 Forms.
- 70.91 Issuance.
- 70.92 Disposition.
- 70.93 Advance information.

### APPEAL OF A GRADING OR DECISION

- 70.100 Who may request an appeal grading or review of a grader's decision.
- 70.101 Where to file an appeal.

- 70.102 How to file an appeal.
- 70.103 When an application for an appeal grading may be refused.
- 70.104 Who shall perform the appeal.
- 70.105 Procedures for appeal gradings.
- 70.106 Appeal grading certificates.

### SANITARY REQUIREMENTS, FACILITIES, AND OPERATING PROCEDURES

- 70.110 Requirements for sanitation, facilities, and operating procedures in official plants.

### Subparts B–C [Reserved]

AUTHORITY: 7 U.S.C. 1621–1627.

SOURCE: 41 FR 23681, June 11, 1976, unless otherwise noted. Redesignated at 42 FR 32514, June 27, 1977, and further redesignated at 46 FR 63203, Dec. 31, 1981.

## Subpart A—Grading of Poultry Products and Rabbit Products

### DEFINITIONS

#### § 70.1 Meaning of words and terms defined.

For the purpose of the regulations in this part, words in the singular shall be deemed to import the plural and vice versa, as the case may demand. Unless the context otherwise requires, the terms shall have the following meaning:

*Acceptable* means suitable for the purpose intended by the AMS.

*Act* means the applicable provisions of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621 *et seq.*) or any other act of Congress conferring like authority.

*Administrator* means the Administrator of the AMS or any other officer or employee of the Department to whom there has heretofore been delegated or to whom there may hereafter be delegated the authority to act in the Administrator's stead.

*Agricultural Marketing Service* or *AMS* means the Agricultural Marketing Service of the Department.

*Applicant* means any interested person who requests any grading service.

*Carcass* means any poultry or rabbit carcass.

*Chief of the Grading Branch* means Chief of the Grading Branch, Poultry Programs, AMS.

*Class* means any subdivision of a product based on essential physical

characteristics that differentiate between major groups of the same kind or species.

*Condition* means any condition, including but not being limited to, the state of preservation, cleanliness, or soundness of any product; or any condition, including but not limited to the processing, handling, or packaging which affects such product.

*Condition and wholesomeness* means the condition of any product and its healthfulness and fitness for human food.

*Department* means the United States Department of Agriculture (USDA).

*Free from protruding feathers or hairs* means that a poultry carcass, part, or poultry product with the skin on is free from protruding feathers or hairs which are visible to a grader during an examination at normal operating speeds. However, a poultry carcass, part, or poultry product may be considered as being free from protruding feathers or hairs if it has a generally clean appearance and if not more than an occasional protruding feather or hair is evidenced during a more careful examination.

*Giblets* means the following poultry organs when properly trimmed and washed: The liver from which the bile sac has been removed, the heart from which the pericardial sac has been removed, and the gizzard from which the lining and contents have been removed. With respect to rabbits "giblets" means the liver from which the bile sac has been removed and the heart from which the pericardial sac has been removed.

*Grader* means any Federal or State employee or the employee of a local jurisdiction or cooperating agency to whom a license has been issued by the Secretary to investigate and certify in accordance with the regulations in this part the class, quality, quantity, or condition of products.

*Grading or grading service* means: (a) The act whereby a grader determines, according to the regulations in this part the class, quality, quantity, or condition of any product by examining each unit thereof or each unit of the representative sample thereof drawn by a grader, and issues a grading certificate with respect thereto, except that

with respect to grading service performed on a resident basis, the issuance of a grading certificate shall be pursuant to a request therefor by the applicant or the Service; (b) the act whereby the grader identifies, according to the regulations in this part, the graded product; (c) with respect to any official plant, the act whereby a grader determines that the product in such plant was processed, handled, and packaged in accordance with § 70.110, or (d) any regrading or any appeal grading of a previously graded product.

*Grading certificate* means a statement, either written or printed, issued by a grader, pursuant to the Act and the regulations in this part, relative to the class, quality, quantity, or condition of a product.

*Holiday or legal holiday* means the legal public holidays specified by the Congress in paragraph (a) of section 6103, title 5, of the United States Code.

*Identify* means to apply official identification to products or the containers thereof.

*Interested party* means any person financially interested in a transaction involving any grading service.

*Lightly shaded discolorations* on poultry are generally reddish in color and are usually confined to areas of the skin or the surface of the flesh.

*Moderately shaded discolorations* on poultry skin or flesh are areas that are generally dark red or bluish, or are areas of flesh bruising. Moderately shaded discolorations are free from blood clots that are visible to a grader during an examination of the carcass, part, or poultry product at normal grading speeds.

*National supervisor* means the officer in charge of the poultry grading service of the AMS, and other employees of the Department as may be designated by the national supervisor.

*Office of grading* means the office of any grader.

*Official plant or official establishment* means one or more buildings or parts thereof comprising a single plant in which the facilities and methods of operation therein have been approved by the Administrator as suitable and adequate for grading service and in which grading is carried on in accordance with the regulations in this part.

*Person* means any individual, partnership, association, business trust, corporation, or any organized group of persons, whether incorporated or not.

*Poultry* means any kind of domesticated bird, including, but not being limited to, chickens, turkeys, ducks, geese, pigeons, and guineas.

*Poultry food product* means any article of human food or any article intended for or capable of being so used, which is prepared or derived in whole or in substantial part, from any edible part or parts of poultry.

*Poultry product* means any ready-to-cook poultry carcass or part therefrom or any specified poultry food product.

*Poultry grading service* means the personnel who are actively engaged in the administration, application, and direction of poultry and rabbit grading programs and services pursuant to the regulations in this part.

*Quality* means the inherent properties of any product which determine its relative degree of excellence.

*Rabbit* means any domesticated rabbit whether live or dead.

*Rabbit product* means any ready-to-cook rabbit carcass or part therefrom.

*Ready-to-cook poultry* means any slaughtered poultry free from protruding feathers, vestigial feathers (hair or down as the case may be) and from which the head, feet, crop, oil gland, trachea, esophagus, entrails, mature reproductive organs, and lungs have been removed, and the kidneys have been removed from certain mature poultry as defined in 9 CFR part 381, and with or without the giblets, and which is suitable for cooking without need of further processing. Ready-to-cook poultry also means any cut-up or disjointed portion of poultry or other parts of poultry as defined in 9 CFR part 381 that are suitable for cooking without need of further processing.

*Ready-to-cook rabbit* means any rabbit which has been slaughtered for human food, from which the head, blood, skin, feet, and inedible viscera have been removed, that is ready to cook without need of further processing. Ready-to-cook rabbit also means any cut-up or disjointed portion of rabbit or any edible part thereof.

*Regional director* means any employee of the Department in charge of poultry grading service in a designated geographical area.

*Regulations* means the provisions of this entire part and such United States classes, standards, and grades for products as may be in effect at the time grading is performed.

*Sampling* means the act of taking samples of any product for grading or certification.

*Secretary* means the Secretary of the Department, or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

*Slight discolorations* on poultry skin or flesh are areas of discoloration that are generally pinkish in color and do not detract from the appearance of the carcass, part, or poultry product.

*Soundness* means freedom from external evidence of any disease or condition which may render a carcass or product unfit for food.

*State supervisor* or *Federal-State supervisor* means any authorized and designated individual who is in charge of the poultry grading service in a State.

*United States Classes, Standards, and Grades for Poultry* means the official U.S. Classes, Standards, and Grades for Poultry (AMS 70.200 *et seq.*) that are maintained by and available from Poultry Programs, AMS.

*United States Classes, Standards, and Grades for Rabbits* means the official U.S. Classes, Standards, and Grades for Rabbits (AMS 70.300 *et seq.*) that are maintained by and available from Poultry Programs, AMS.

[41 FR 23681, June 11, 1976; 41 FR 24693, June 18, 1976. Redesignated at 42 FR 32514, June 27, 1977, as amended at 43 FR 60138, Dec. 26, 1978. Redesignated at 46 FR 63203, Dec. 31, 1981, as amended at 47 FR 46071, Oct. 15, 1982; 47 FR 54421, Dec. 3, 1982; 51 FR 17280, May 9, 1986; 60 FR 6639, Feb. 2, 1995; 63 FR 40628, July 30, 1998; 71 FR 42011, July 24, 2006]

**§ 70.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.**

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by